IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 25255 of 2004

Between:

Sri C.Rami Reddy, S/o Sri Sanjeeva Reddy, Retired Employee, Resident of Plot No.567, Vivekananda Nagar Colony, Near Kukatpally, Hyderabad.

..... PETITIONER

AND

1. The District Collector-Ranga Reddy District at Saifabad, Hyderabad.
2. The District Registrar, Ranga Reddy District.
3. The Sub-Registrar, Medchal, Ranga Reddy District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ, order or direction more particularly one in the nature of Writ of Mandamus calling for the record from the 1st respondent herein relating to circular instructions R.C.No.E2/406/2001, dated 06.02.2001 and declare the same as illegal, arbitrary and violative of Article 14 and 19 of the Constitution of India and Ultravires of the Registration Act and consequently direct the 2nd and 3rd respondents herein to register the sale deeds in respect of the petitioner's land bearing Plot No. P-18 admeasuring 200 Sq.yards or 167.5 Sq.Metres situated at Mahadevapuram Residential Project out of Ac.18.27 Guntas of land situated in Survey Nos.329/9 and

329/7 (part), Gajularamaram Village, Qutbullapur Mandal, Ranga Reddy District in favour of the prospective purchasers.

For the Petitioner: MR.N.CHANDRADHAR RAO, Advocate

For the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

ORDER:

The petitioner claims to be owner of the land bearing Plot No.P-18 admeasuring 200 square yards situated at Mahadevapuram Residential Project in Survey Nos.329/9 and 329/7(part) of Gajularamaram Village, Quitbullapur Mandal, Rangareddy District. He intends to sell the said land to prospective purchasers. It is stated that when he had approached respondent Nos.2 and 3 for the purpose of registration of the land in favour of prospective purchasers, they refused to register the sale deed due to the circular instructions issued by the first respondent in Proc.No.R.C. No.E2/406/2001, dated 06-02-2001. Assailing the impugned circular of the first respondent and consequently seeking a direction to respondent Nos.2 and 3 to register the sale deed in respect of the land in question, the petitioner filed the present writ petition.

It is submitted by the learned counsel for the petitioner and admitted to by the learned Government Pleader for Revenue that the subject matter of this writ petition is squarely covered by a judgment of this Court in W.P. No.1953 of 2002, dated 11-12-2003. In the circumstances, following the said judgment, this writ petition is disposed of in the following terms.

In the impugned circular, the Joint Collector took exception to the issuance of no objection certificate by the Mandal Revenue Officers and he ultimately directed the Mandal Revenue Officers not to issue any no objection certificate for registration purpose or otherwise in respect of lands in the district without prior approval of the District Collector. A direction was also issued to all the Sub-Registrars not to entertain any documents for registration of lands in the district without prior approval or in the absence of no objection certificate from the District Collector. In a way the circular brings all the transactions in respect of lands in the district to halt. For such an exercise, the respondents must have specific power under any relevant statute. The circular has no reference to any provision of law under which it is issued.

As long as any person holds title to the property, the respondents do not have any power or jurisdiction to prevent the same from being transferred. It is not as if there is no provision of law to protect the properties of the Government. In case, any individual is found to be in possession of government land, the Andhra Pradesh Land Encroachment Act enables the revenue authorities to evict the persons in

unauthorized occupation. Similarly, proceedings can be initiated under the provisions of the Andhra Pradesh Land Grabbing (Prohibition) Act where a person is found to be in possession of government land without legal entitlement. The Joint Collector has chosen the course of action, which is not permissible in law.

The Registration Act does contain a provision enabling the government to prohibit transfer in respect of any lands. Such prohibition, however, is to be imposed by issuing a notification under Section 22(A) of the Registration Act, 1908. The Government has not chosen to issue a notification under that provision in respect of land held by the petitioner. Viewed from any angle, this Court does not find any basis for the impugned circular. The Division Bench of this Court in its judgment dated 10-09-2001 in W.A. No.1390 of 2001 took exception to such an exercise.

For the foregoing reasons, the writ petition is allowed and the impugned order is set aside. Any document presented by the petitioner or any persons claiming through him in respect of the land in question shall be processed and dealt with as per the provisions of the Indian Stamp Act and the Registration Act.

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N.V. RAMANA, J

Date: 31-12-2004

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, the Thirty First day of December, Two thousand and Four.

To

1. The District Collector-Ranga Reddy District at Saifabad, Hyderabad.

2. The District Registrar, Ranga Reddy District.

3. The Sub-Registrar, Medchal, Ranga Reddy District.

4. Two C.Cs to the Government Pleader for Revenue, High Court Buildings, A.P.,Hyderabad (OUT).

5. Two C.D.copies.